The Andhra Pradesh Vaidya Vidhan Parishad Act, 1986

Act 29 of 1986

Keyword(s):
Specialist, Super Specialist

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THE ANDHRA PRADESH VAIDYA VIDHANA PARISHAD ACT, 1986.

ACT No. 29 OF 1986.*

[18*th August.* 1986]

An Act to provide for the Constitution of a Commissionerate for Establishing, Expanding and Administering District, Erstwhile Taluk Hospitals and Dispensaries for providing better Medical Care in the State of Andhra Pradesh and for matters connected therewith or incidental thereto.

Whereas it has been provided in article 47 of the Constitution, under the Directive Principles of State Policy that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties ;

And whereas time is ripe for re-structuring the existing Government Health Organisations by seperating curative and preventive aspects so that greater emphasis could be given for the intensive development of both these areas and to strengthen necessary linkages at appropriate levels to ensure the attainment of the objectives of comprehensive medical and health care;

And whereas in order to achieve the said objectives it is considered expedient to create Vaidya Vidhana Parishad for the State.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in Thirty-seventh Year of the Republic of India as follows :—

CHAPTER-I

Preliminary

1. (1) This Act may be called the Andhra Pradesh Vaidya Vidhana Parishad Act, 1986. **Short title, extent and commencement.**

*Received the assent of the Governor on the 16th August, 1986. For Statement of Objects and Reasons, please see, the *Andhra Pradesh Gazette,* Part IV-A, Extraordinary, dated the 26th July, 1986, at page 18.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Commissioner" means the Commissioner of Andhra Pradesh Vaidya Vidhana Parishad appointed under section 4 ;

(b) "Commissionerate" means the Andhra Pradesh Vaidya Vidhana Parishad constituted under section 3 ;

(c) "Governing Council" means the Governing Council constituted under section 5;

(d) "Government" means the State Government;

(e) "notification" means a notification published in the *Andhra Pradesh Gazette* and the word "notified" shall be construed accordingly ;

(f) "prescribed" means prescribed by rules made by the Government or the regulations made by the Commissionerate as the case may be under this Act;

(g) "specialist" means a medical practitioner with post-graduate qualification in any of the disciplines relating to medical sciences ;

(h) "super specialist" means a medical practitioner with any higher qualification than a post-graduate qualification in any of the disciplines relating to medical science.

CHAPTER-II

Establishment of Commissionerate

Constitution of the Commissionerate and its functions.

3. (1) As soon as may be after the commencement of this Act, the Government may, by notification, constitute a Commissionerate for the State of Andhra Pradesh called the "Andhra Pradesh Vaidya Vidhana Parishad".

(2) The Commissionerate shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act and rules made thereunder, to acquire, hold and dispose of property, and to enter into contracts, and shall by the said name sue and be sued.

(3) The Commissionerate shall consist of—

(a) The Commissioner, who shall be a reputed member of the medical profession with proven administrative ability appointed by the Government;

(b) a Governing Council; and

(c) such other employees as may be determined by the Governing Council.

(4) The salary and other terms and conditions of the service of the Commissioner shall be such as may be specified in the rules and that of other employees of the Commissionerate shall be such as may be prescribed by regulations.

(5) The Commissionerate shall have the following functions, namely :--

(a) to formulate and implement the schemes for the comprehensive development of the dispensaries and hospitals ;

(b) to construct and maintain dispensaries and non-teaching hospitals, and maintenance of cleanliness therein ;

(c) to purchase, maintain and allocate quality equipment to various dispensaries, and hospitals;

(d) to procure, stock and distribute drugs, diet, linen and other consumables among the dispensaries, and hospitals ;

(e) to provide the facilities of specialists and super-specialist at various hospitals;

(f) to receive donations, funds, and the like from the general public, and institutions both from within and outside India ;

(g) to receive grants or contributions which may be made by the Government on such conditions as they may impose ;

(h) to provide for construction of houses to the employees of the dispensaries and hospitals, and the maintenance thereof by mobilising resources from financing institutions ;

(i) to plan, construct and maintain commercial complexes, paying wards, and providing diagnostic services and treatment on payment basis and utilise the receipts for the improvement of the hospital and dispensary ;

(j) to run public utility services and any other activity of commercial nature within the hospital premises ;

(h) to run canteens, and cafetaria within the hospital premises.

The Commissioner.

4 (1) The Commissioner shall be the Chief-Executive and whole time officer of the Commissionerate and he shall implement the decisions of the Governing Council and shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Governing Council.

(2) The Commissioner shall exercise general control and supervision over the dispensaries and hospitals in the effective performance of their functions under this Act or the regulations made thereunder.

Constitution of Governing Council.

5. (1) There shall be a Governing Council consisting of the following members, namely:—

(a) the Commissioner shall be the Chairman ex-officio;

(b) (i) the Secretary to Government in the Medical and Health Department;

(ii) the Secretary to Government in the Finance and Planning (Finance Wing) Department;

(iii) Commissioner, Institutional Finances;

(iv) the Director of heallt and famliy welfare; and

(v) the Vice-Chancellor of University of Health Sciences, shall be *ex-officio* members ;

(c) Five eminent persons belonging to medical profession or any other profession or members of the State Legislative Assembly nominated by the Government for such period as may be prescribed.

Meeting of the governing Council.

6. (1) The Governing council shall hold ordinary meetings at such intervals as may be prescribed in the regulations and meeting may be convened by the Chairman at any time for the transaction of any urgent business.

(2) The number of members necessary to constitute a quorum at a meeting and the procedure to be followed thereat shall be such as may be provided in the regulations.

Powers of governing Council.

7. (1) The Governing Council shall be the principal policy formulating body of the Commissionerate and shall have the following powers, namely:—

(a) to make regulations for fulfilling the objectives of the Act;

(b) to make decisions for moblising and borrowing money for carrying out the activities of the Commissionerate;

(c) to promote research and dissemination of knowledge in medical science in collaboration with kindred institutions;

(d) to consider and take such action as deemed fit on the annual report, the annual accounts and the financial estimates;

(e) to enter into an agreement with the Central or any State Government or with a private management aor assuming management of any dispensary or hospital and for taking over its properties and liabilities or for ny other purposes of this Act ;

(f) to decide and regulate all matters concerning the Commissionerate in accordance with this Act, rules and the regulations ;

(g) to exercise such other powers and perform such other functions as may be conferred or enjoined upon it by the Act or the rules ;

(h) to appoint persons to the various posts of the dispensaries and hospitals and to fix their emoluments, define their duties and terms and conditions of service and provide for filling up of vacancies ;

(i) to hold, control and administer the properties of the Commissionerate ;

(j) to direct the form, custody and use of the common seal of the Commissionerate ;

(k) to administer the funds placed at the disposal of the Commissionerate for specific purpose;

(l) to accept on behalf of the Commissionerate endowments, bequests, donations, grants and transfer of any moveable and immovable properties made to the commissionerate ;

(m) to raise on behalf of the Commissionerate loans, from the Central or any other Government or the public or any other financial institutions ;

(n) to levy and collect such fees as may be prescribed for various specific services rendered ;

(o) to purchase, stock manufacture and distribute drugs, linen and other consumables among the dispensaries and hospitasl ;

(p) to construct and maintain dispensaries and hospitals ;

(q) to purchase, maintain and allocate quality equipment to various dispensaries and hospitals;

(r) to provide the services of specialists, super-specialists at various hospitals;

(s) to provide housing facilities to the employees of the dispensaries and hospitals as may be prescribed; and

(t) to exercise such other powers and perform such other functions as may be conferred or enjoined upon it by this Act or the rules made thereunder.

(2) The Governing Council may, by an order in writing, delegate all or any of its powers to the Commissioner or to any other officer of the Commissionerate for the effective fulfilment of the objectives of the Commissionerate.

Committee of professional experts.

8. The Governing Council may, in such manner as may be prescribed constitute Committees of professional experts in respect of such dispensaries and hospitals as they may consider necessary, as and when required with a view to bring about qualitative improvements of the medical care facilities, which shall function under the administrative control of the Commissionerate.:

CHAPTER-III.

Commissionerate Finance and Fund.

Levy of fee by the Commissionerate etc.

9. For the purpose of this Act, the commissionerate may,—

(a) levy fees, or other charges from such person or class of persons making use of the services of dispensary or hospital in accordance with such regulations as may be prescribed:

(b) to defray operating expenses, and to ensure better up keep and hygenic conditions and sustained improvement of the dispensaries or hospitals

(c) to continuously update equipment and modernise the services so as to keep pace with the advancement in the medical care facilities to the public and to provide up-to-date facilities to the public;

(d) effect repayment of loans and other borrowings;

(e) provide for such other purposes, beneficial to the promotion of medical care, as the Commissionerate may determine.

Funds of the commissionerate.

10. (1) The Commissionerate shall have its own fund consisting of:—

(a) the grants from Government voted by the Legislative Assembly of the State towards grants of the Commissionerate and grants received from the Central Government;

(b) all moneys received by or on behalf of the Commissionerate under the provisions of this Act or any other law for the time being in force, or under any other contract;

(c) all proceeds of the disposals of the property by or on behalf of the Commissionerate;

(d) all rents accruing from any property of the Commissionerate;

(e) all moneys received by or on behalf of the Commissionerate from public bodies, private bodies or private individuals by way of grants, gifts or deposists;

(f) all interests and profits arising from any investment of or from any transaction in connection with any money belonging to the Commissionerate.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner, as the Governing Council may decide.

(3) The Commissionerate may spend such sums as deemed fit, for performing its functions under this Act and such sums shall be treated as expenditure payable out of the fund.

Vesdisting of dispensaries and hospitals with the Clommissonerate.

11. (1) With effect from such date as may be prescribed,—

(a) every officer or employee who immediately before that date was under the administrative control of the Director of Medical Education shall stand transferred to the Commissionerate and shall be deemed to be officer or employee of the Commissionerate;

(b) (i) the control and management of all dispensaries, non-teaching hospitals, except such hospitals which are primarily dealing with implementation of National Health Programme like T.B. Control, Leprosy Control, shall stand transferred to and vest in the Commissionerate and shall function under the administrative control of the Commissionerate;

(ii) All the Medical Colleges. Teaching Hospitals, Dental College, Nursing Colleges and Nursing School will be transferred to the University of Health Sciences as soon as the University of Health

Sciences is in a position to take over these institutions from the date specifically to be notified by the Government; till such time the Commissionerate will administer them.

(c) all the properties, assets and liabilities, rights and obligations in relation to such dispensaries and non-teaching hospitals, and all obligations of the Government in relation to them shall develop upo n the Commissionerate; ; and

(d) every officer or employee who, immediately before that date was under the administrative control of such dispensaries ; district head-quarters, hospitals, and non-teaching hospitals shall stand transferred to the Commissionerate and shall be deemed to be an officer or an employee of the Commissionerate:

Provided that,—

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Commissionerate shall not be less favourable than those applicable to such employees immediately before such transfer as respects pay and allowances, leave, pension, gratuity, provident fund and age of superannuation;

(ii) the service rendered by any such officer or employee in the aforesaid dispensaries and non-teaching hospitals shall be deemed to be service under the Commissionerate constituted under this Act and he shall be entitled to count that service for the purpose of increments, leave, pension, provident fund and gratuity.

(2) In addition to the staff transferred to the Commissionerate under sub-section (1), the Commissionerate may appoint such other officers and employees on such terms and conditions, as may be prescribed from time to time.

(3) Every officer and employee transferred to the Commissionerate under sub-section (1) shall, notwithstanding anything in this Act, continue to hold such post subject to the provisions of the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Act, 1984 and such rules as may be made under the proviso to article 309 of the Constitution; Act 23 of 1984.

a nd until such provision in that regard is so made, the law for the time being in force regulating recruitment and conditions of service applicable to such holder immediately before such date shall continue to apply such holder:

Provided that before taking action under sub-section (1), the officer or employee shall be given an opportunity to opt for such transfer:

Provided further that those officers and employees who do not opt for absorption in the Commissionerate will continue to hold such posts on deputation terms as per the rules made in this regard

CHAPTER-IV

Miscellaneous

Members' and Officers ployees of the Commissionerate to be Public Servants.

Central Act. 45 of 1860.

Central Act. of 1947.

12. (1) All members, officers and other employees of the Commissionerate shall be deemed, when acting or purporting to act pursuance of the provisions of this Act or any rule or regulation made there under, to be public servants within the meaning of section 21 of the Indian Penal Code. 1860 and the prevention of Corruption Act. 1947 for the time being in force.

(2) The word "State Government"and" Government" in section 161 of the Indian Penal Code shall for the purposes of sub-section (1) be deemed to include the Commissionerate.

Protection of action done in good faith.

13 (1) No suit or prosecution shall be entertained in any court against the Commissionerate or against any officer or servant of the Commissionerate or person acting under the order or direction of Commissionerate or any officers or servants of the Commissionerate for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

(2) No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Commissionerate for any act done or purporting to be done under this Act or any rule or regulation made there-under without previous sanct of the Commissionarate,

14. (1) The Commissionerate shall prepare an annual financial statement on or before such date, as may be prescribed by the regulations, of the estimated capital and revenue receipts and expenditure for the ensuing year.

Annual financial statement.

(2) The said statement shall include a statement of salaries and allowances of members, officers and servants of the Commissionerate and of such other particulars as may be prescribed by the rules.

(3) The Government shall, as soon as may be after receipt of the said statement, cause it to be laid on the Table of the Legislative Assembly of the State.

(4) The Commissionerate shall take into consideration any comments made on the said statement in the Legislative Assembly of the State.

(5) The Commissionerate may at any time durng the year in respect of which a statement under subsection (1) has been submitted, submit to the Government a supplementary statement, and all provisions of this section shall apply such statements as they apply of the statement under the said sub-section.

Subventions and loans to the Commissionerate.

15. (1) The Government may, with the approval of the Legislative Assembly of the State, from time to time make subventions to the Commissionerate foi the purposes of this Act on such terms and conditions as the Government may determine.

(2) The Government may, from time to time advance loans to the Commissionerate for purposes of this Act on such terms and conditions as the Government may determine.

Power of Commissionerate to borrow.

16. (1) The Commissionerate may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act, and to such condition as may be prescribed borrow any sum required for the purposes of this Act.

(2) The Government may, for the purpose of this section, empower the Commissionerate to borrow by the issue of bonds or stocks or otheiwise and to make arrangements with Bankeis.

(3) The maximum amount which the Commissionerate may at any time raise as loan under sub-section (1) shall be ten crores of rupees unless the Government by notification fix higher maximum, amount.

(4) Stocks issued by the Commissionerate under this section shall be issued, transferred, dealt with and redeemed in such manner as may be prescribed.

Gurantee of bands. loans

17. The Government may guarantee in such manner as they think fit the payment of the principal and interest of any loan proposed to be raised by the Commissionerate or of either the principal or the interest :

Provided that the Government shall, so long as any such guarantees are inforce, lay before the Legislative Assembly of the State in every year during the budget session, a statement of the guarantees, if any given during the current financial year of the State, and an upto date account of the total sums, if any, which have been paid out of State revenues by reason of any such guarantees or paid into State revenues towards repayment of any money so paid.

Payment of interest to Government.

18. In respect of assets of the Government which vest in the Commissionerate by virtue of the provisions of this Act, the Commissionerate shall pay interest on the cost of such assets as such rates as may, from time to time, be fixed by the Government in consultation with the Commissionerate and such interest shall be deemed to be a part of the expenditure of the Commissionerate.

Accounts and Audit.

19. (1) The Commissionerate shall cause proper accounts and other records in relation thereto be kept, including the proper system of internal check and prepare an annual statement of accounts, including the income and expenditure account and the balance sheet in such form as may be prescribed by regulations.

(2) The accounts of the Commissionerate shall be audited by such persons as may be appointed by the Government and any expenditure incurred in connection with such audit shall be payable by the Commissionerate to the Government.

(3) The person so appointed and any other person authorised by him in connection with the audit of the accounts of the Commissionerate shall have the same rights, privileges and authority in connection with such audit as the Comptroler and Auditor-General of India has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Commissionerate.

(4) The accounts of the Commissionerate certified by the person so appointed or any other person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the Government and the Government may issue such instructions to the Commissionerate in respect thereof they deem fit and the Commissionerate shall comply with such instructions.

(5) The Government, may cause the account of the Commissionerate together with the audit report thereon forwarded to them under sub-section (4) to be laid annually before the Legislative Assembly of the State.

Authentication of order and other instruments of the commissionerate

20. All orders and decisions of the Commissionerate shall be authenticated by the signature of the Commissioner or any other officer authorised by the Commissionerate in this behalf and all other instruments issued by the Commissionerate shall be authenticated by the signature of such officer of the Commissionerate as may be authorised by the Commissionerate in this behalf.

Direction by the Government.

21. (1) In the discharge of its functions under this Act, the Commissionerate shall be guided by such directions on questions of policy relating to State purposes or in case of any emergency as may be given to it by the Government.

(2) If any dispute arises between the Governement and the Commisionerate as to whether the question is or is not a question of policy relating to the State purposes, or whether an emergency has arisen the decision of the Government thereon shall be final.

to provide for all or any of the following matters, namely:—

(*a*) the administration of the funds and other properties of the Commissionerate and the maintenance of its accounts ;

(*b*) the procedure to be followed at the meetings of the Commissionerate and the manner in which the Commissionerate shall conduct its meetings ;

(*c*) the duties of officers and employees of the Commissionerate and their salaries, allowances and other conditions of service ;

(*d*) the procedure to be followed by the Commissionerate in inviting, considering and accepting tenders ; and

(*e*) any other matter arising out of the Commissionerate function under this Act in which it is necessary or expedient to make regulations.

THE ANDHRA PRADESH VAIDYA VIDHANA PARISHAD (AMENDMENT) ACT, 1987.

ACT No. 5 OF 1987.[@]

[4th February, 1987]

An Act to amend the Andhra Pradesh Vaidya Vidhana Parishad Act, 1986.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Andhra Pradesh Vaidya Vidhana Parishad (Amendment) Act, 1987. Short title.

2. In the Andhra Pradesh Vaidya Vidhana Parishad Act, 1986, in section 11,- Amendment to section 11, Act, 29 of 1986.

@Received the assent of the Governor on the 4th February, 1987. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated the 22nd January, 1987 at page 4.

(1) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) With effect from such date as may be notified,—

(a) the control and management of all dispensaries, non-teaching hospitals, except such hospitals which are primarily dealing with implementation of National Health Programme like T. B. Control, Leprosy Control, shall stand transferred to and vest in the Commissionerate and shall function under the administrative control of the Commissionerate;

(b) all the properties, assets and liabilities, rights and obligations in relation to such dispensaries and non-teaching hospitals, and all obligations of the Government in relation to them shall devolve upon the Commissionerate;

(c) every officer or employee who, immediately before that date was working in such dispensaries and non-teaching hospitals shall continue to work on deputation with the Commissionerate till such time he exercises option to be absorbed in the service of the Commissionerate; and

(d) every officer or employee in the Directorate of Medical and Health Services and its subordinate offices who immediately before that date was dealing with such dispensaries and non-teaching hospitals shall continue to work on deputation with the Commissionerate tilll he exercises the option to be absorbed in the service of the Commissionerate:

Provided that—

(i) the terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Commissionerate shall not be less

favourable than those applicable to such employees immediately before such absorption as respects pay and allowances, leave, pension, gratuity, provident fund and age of superannuation;

(ii) the service rendered by any such officer or employee in the aforesaid dispensaries, non-teaching hospitals and the Directorate of Medical and Health Services and its subordinate offices prior to their absorption in the Commissionerate shall be deemed to be service under the Commissionerate constituted under this Act and he shall be entitled to count that service for the purpose of increments, leave, pension, provident fund and gratuity;

(iii) such of those officers and employees who do not opt for absorption in the service of the Commissionerate may continue on deputation.

(2) in sub-section (2) for the words "transferred to" the words "absorbed in" shall be substituted;

(3) in sub-section (3),—

(a) for the words "transferred to" the words "absorbed in" shall be substituted;

(b) the provisos shall be omitted.